



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2120

DATE SCANNED 9-13-10

SCANNER NO. 2

SCAN OPERATOR Jms

10092651263



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION
SECRETARIAT

2010 MAR 24 A 8:49

March 23, 2010

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: ALEC PALMER *AP*
ACTING STAFF DIRECTOR

FROM: PATRICIA CARMONA *PC*
CHIEF COMPLIANCE OFFICER

DEBBIE CHACONA *M.H. for D.C.*
ACTING ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: *NUE* NATALIYA IOFFE/RHIANNON MAGRUDER/IAN WANDNER *pm* *J. W*
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2009 YEAR END
REPORT FOR THE ADMINISTRATIVE FINE PROGRAM

Attached is a list of political committees and their treasurers who failed to file the 2009 Year End Report in accordance with 2 U.S.C. § 434(a). The Year End Report was due on January 31, 2010.

The committees listed in the attached RTB Circulation Report either failed to file the report, filed the report more than five (5) days after the due date, or filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. § 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

10092651264

Federal Election Commission
Reason to Believe Circulation Report
2009 YEAR-END Not Election Sensitive 01/31/2010 H_S_P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2117	C00041061	AMERICAN PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE		CAPTAIN MICHAEL R. WATSON	\$108,400	1	3/20/2010	Not Filed	\$25,527	\$1,237
2118	C00338020	ASSISTED LIVING FEDERATION OF AMERICA		MS. MARIBETH BERSANI	\$109,759	0	2/22/2010	22	\$70,221	\$2,145

2120	C00458760	DAN GELBER FOR SENATE	GELBER, DANIEL	BRENDA SCHWARTZ	\$773,945	0		Not Filed	\$257,982 (est)	\$8,800
2121	C00458810	FRIENDS OF WAYNE	MOSLEY, EMMETT WAYNE JR.	SARAH WESTCOTT	\$236,492	0		Not Filed	\$118,246 (est)	\$4,950

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2009)
Year End Report for the Administrative)
Fine Program:)
ASSISTED LIVING FEDERATION OF) AF# 2118
AMERICA, and BERSANI, MARIBETH)
MS as treasurer;)
AMERICAN PILOTS' ASSOCIATION) AF# 2117
POLITICAL ACTION COMMITTEE, and)
CAPTAIN MICHAEL R WATSON as)
treasurer;)

DAN GELBER FOR SENATE, and) AF# 2120
BRENDA SCHWARTZ as treasurer;)
FRIENDS OF WAYNE, and SARAH) AF# 2121
WESTCOTT as treasurer;)

CERTIFICATION

I, Darlene Harris, Acting Secretary of the Federal Election Commission, do hereby certify that on March 25, 2010 the Commission took the following actions on the Reason To Believe Recommendation - 2009 Year End Report for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated March 23, 2010, on the following committees:

AF#2118 Decided by a vote of 6-0 to: (1) find reason to believe that ASSISTED LIVING FEDERATION OF AMERICA, and BERSANI, MARIBETH MS as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money

10092651266

penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2117 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE, and CAPTAIN MICHAEL R WATSON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2120 Decided by a vote of 6-0 to: (1) find reason to believe that DAN GELBER FOR SENATE, and BRENDA SCHWARTZ as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2121 Decided by a vote of 6-0 to: (1) find reason to believe that FRIENDS OF WAYNE, and SARAH WESTCOTT as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

March 29, 2010
Date

Darlene Harris
Darlene Harris
Acting Secretary of the Commission

10092651267



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 29, 2010

Brenda Schwartz as Treasurer
Dan Golber for Senate
1521 Alton Road, #780
Miami Beach, FL 33139

C00458760
AF#: 2120

Dear Ms. Schwartz:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a Year End Report of Receipts and Disbursements every calendar year. This report, covering the period through December 31, 2009, was due no later than January 31, 2010. 2 U.S.C. § 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date. You should file this report if you have not already done so.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On March 25, 2010, the FEC found that there is reason to believe ("RTB") that Dan Gelber for Senate and you, as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before January 31, 2010. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$8,800. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-11.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$8,800 is due within forty (40) days of the finding, or by May 4, 2010, and is based on these factors:

Sensitivity of Report: Not Election Sensitive
Level of Activity: \$257,982
Number of Days Late: Not Filed
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street,

10092651268

NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or May 4, 2010. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Dan Gelber for Senate and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.45.

10092651269


3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiamon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen
Chairman

18092651270

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$8,800 for the 2009 Year-End Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by May 4, 2010. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Dan Gelber for Senate

FEC ID#: C00458760

AF#: 2120

PAYMENT DUE DATE: May 4, 2010

PAYMENT AMOUNT DUE: \$8,800

10092651271



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2010 MAY 25 A 9:24

May 24, 2010

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: ALEC PALMER
ACTING STAFF DIRECTOR *AP*

FROM: PATRICIA CARMONA *PC*
CHIEF COMPLIANCE OFFICER

DEBBIE CHACONA *DC*
ACTING ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: *nm* NATALIYA IOFFE/RHIANNON MAGRUDER/IAN WANDNER *pm*
COMPLIANCE BRANCH *l.w.*

SUBJECT: ADMINISTRATIVE FINE PROGRAM – FINAL DETERMINATION
RECOMMENDATION FOR THE 2009 YEAR END REPORT

Attached are two lists of political committees and their treasurers against which the Commission has found reason to believe (RTB) and assessed proposed civil money penalties calculated at RTB for failure to file or failure to timely file the 2009 Year End Report. The first list represents the committees that have paid the civil money penalty and the second list represents the committees that have not paid the civil money penalty. The committees that have not paid have been given at least forty (40) days from the date of the Commission's RTB finding to remit payment.

In accordance with 11 CFR § 111.34 and 11 CFR § 111.40, the Commission shall send a final determination notice to those respondents that have either paid or not paid the civil money penalty.

For your information, Dan Gelber for Senate (AF 2120) filed the 2009 Year End Report after the RTB finding and disclosed no activity (previously estimated to be \$257,982), which would result in no civil money penalty (previously estimated to be \$8,800).

Friends of Wayne (AF 2121) filed the 2009 Year End Report after the RTB finding and disclosed a level of activity which would result in a lowered civil money penalty. The committee disclosed total receipts and disbursements of \$22,447 (previously estimated to be \$118,246), thus the fine would be lowered from \$4,950 to \$550.

10092651272

RAD Recommendation

- (1) Make final determination that the political committees and their treasurers listed on the attached reports violated 2 U.S.C. § 434(a) and assess the final civil money penalties so indicated.
- (2) Send the appropriate letters.

10092651273

10092651274

Federal Election Commission
FD Circulation Report Fine Paid
2009 YEAR-END Not Election Sensitive 01/31/2010 H_S_P_UNAUTH

AF#	Committee Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Final Money Penalty	Date Paid	Amount Paid
2117	AMERICAN PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE	C00041061	CAPTAIN MICHAEL R WATSON	03/20/2010	Not Filed	\$25,527	1	03/25/2010	\$1,237	\$1,237	05/05/2010	\$1,237
2118	ASSISTED LIVING FEDERATION OF AMERICA	C00338020	BERSANI, MARIBETH MS	02/22/2010	22	\$70,221	0	03/25/2010	\$2,145	\$2,145	04/13/2010	\$2,145

10092651275

Federal Election Commission
 FD Circulation Report Fine Not Paid
 2009 YEAR-END Not Election Sensitive 01/31/2010 H_S_P_UNAUTH

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Days Since RTB	FD Penalty
2120	DAN GELBER FOR SENATE	GELBER, DANIEL	C00458760	BRENDA SCHWARTZ	05/06/2010	Not Filed	\$0	0	03/25/2010	\$8,800	60	\$0
2121	FRIENDS OF WAYNE	MOSLEY, EMMETT WAYNE JR	C00458810	SARAH WESTCOTT	05/03/2010	Not Filed	\$22,447	0	03/25/2010	\$4,950	60	\$550

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Administrative Fine Program - Final)
Determination Recommendation for the)
2009 Year End Report:)
ASSISTED LIVING FEDERATION OF) AF# 2118
AMERICA, and BERSANI, MARIBETH)
MS as treasurer;)
AMERICAN PILOTS' ASSOCIATION) AF# 2117
POLITICAL ACTION COMMITTEE, and)
CAPTAIN MICHAEL R WATSON as)
treasurer;)

DAN GELBER FOR SENATE, and) AF# 2120
BRENDA SCHWARTZ as treasurer;)
FRIENDS OF WAYNE, and SARAH) AF# 2121
WESTCOTT as treasurer;)

CERTIFICATION

I, Darlene Harris, Acting Secretary of the Federal Election Commission, do hereby certify that on May 26, 2010, the Commission took the following actions on the Administrative Fine Program - Final Determination Recommendation for the 2009 Year End Report as recommended in the Reports Analysis Division's Memorandum dated May 24, 2010, on the following committees:

AF#2118 Decided by a vote of 6-0 to: (1) make a final determination that ASSISTED LIVING FEDERATION OF AMERICA, and BERSANI, MARIBETH MS

10092651276

as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2117 Decided by a vote of 6-0 to: (1) make a final determination that AMERICAN PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE, and CAPTAIN MICHAEL R WATSON as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2120 Decided by a vote of 6-0 to: (1) make a final determination that DAN GELBER FOR SENATE, and BRENDA SCHWARTZ as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2121 Decided by a vote of 6-0 to: (1) make a final determination that FRIENDS OF WAYNE, and SARAH WESTCOTT as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

May 27, 2010
Date

Darlene Harris
Darlene Harris
Acting Secretary of the Commission

10092651277



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 28, 2010

Brenda Schwartz, in official capacity as Treasurer
Dan Gelber for Senate
801 Arthur Godfrey Rd., Suite 300
Miami Beach, FL 33140

C00458760
AF#: 2120

Dear Ms. Schwartz:

On March 25, 2010, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Dan Gelber for Senate and its treasurer violated 2 U.S.C. § 434(a) for filing late or failing to file the 2009 Year-End Report. By letter dated March 29, 2010, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$8,800 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. The amount of the civil money penalty has been changed to reflect the actual level of activity of the 2009 Year-End Report.

The FEC made a final determination on May 26, 2010 that you, in your official capacity as treasurer, and Dan Gelber for Senate violated 2 U.S.C. § 434(a), assessed no civil money penalty in accordance with 11 C.F.R. § 111.43, and voted to close the file.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Rhiamon Magruder on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Matthew S. Petersen".

Matthew S. Petersen
Chairman

10092651278



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2120

DATE SCANNED 9-13-10

SCANNER NO. 4

SCAN OPERATOR IMP

10092651279